

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARMEN OTERO Mc CULLOCH,

Plaintiff,

AFFIDAVIT

-against-

07 CV 9780 (LAP)(RLE)

**TOWN OF MILAN, TOWN OF MILAN TOWN BOARD,
JOHN V. TALMADGE, Town Supervisor, and ALFRED
LO BRUTTON, PAULINE COMBE-CLARK, DIANE
MAY, and ROSS WILLIAMS, Councilpersons, TOWN OF
MILAN PLANNING BOARD, LAUREN KINGMAN,
Chairman, and Members JEFFREY ANAGOS, PETER
GROSS, SHEILA MARGIOTTA, MARY ANN
HOFFMAN, and PAULINE COMBE-CLARK, GARY
E. BECK, Zoning Enforcement Officer, Town of Milan, and
FRANK MARGIOTTA, BARBARA HUGHEY, and
CHARLOTTE NORMAN,**

Defendants.

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Karen Buechele, being duly sworn, deposes and says:

1. I am employed by the Town of Milan as Planning Board Secretary and have been employed in that capacity since in or about 2004. My duties as Planning Board Secretary include the filing of notice of Planning Board decisions and minutes in the office of the Planning Board and with the Town Clerk.
2. My uniform and consistent practice is to write a letter to the applicant on the day following a Planning Board meeting setting forth any actions taken by the Planning Board and the vote. I also provide a copy of that letter to the Town Clerk. All such letters indicate that a copy of the letter providing notice of the action taken has been provided to the Town Clerk as denoted thereon : "cc: Catherine Gill, Town Clerk."

3. In addition, all Planning Board minutes also are filed with the Town Clerk as indicated by at the end of minutes. Because the minutes of a meeting are prepared by me in the interim between a meeting and the following meeting, they generally are approved at the next subsequent meeting, approximately one month later.

4. With respect to the preliminary subdivision approval for "Woodland Hills Subdivision," I wrote to Mr. McCulloch on April 7, 2005 advising him that the Planning Board granted preliminary subdivision approval by a 5-0 vote on April 6, 2005. The letter to Mr. McCulloch indicates that a copy of the letter was provided to the Town Clerk, a copy of which is annexed hereto as Exhibit "A". Because both the Town Clerk and I work part-time, as with all of the documents referred to herein, a copy of the letter was left in a folder for the Town Clerk and was picked-up by her the following day.

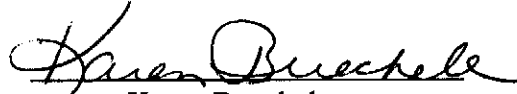
5. The minutes of the April 6, 2005 meeting at which preliminary plat approval was granted for the Woodlands Hills Subdivision were approved at the May 4, 2005 Planning Board meeting. As indicated thereon, a copy of the minutes (Exhibit "B") was provided by me to the Town Clerk, received by her, upon information and belief, on May 6, 2005.

6. Similarly, I wrote to Mr. McCulloch on June 30, 2005 advising him that the Planning Board granted final subdivision approval by a 4-0 vote on June 29, 2005. The letter to Mr. McCulloch indicates that a copy of the letter was provided to the Town Clerk, a copy of which is annexed hereto as Exhibit "C".

7. The minutes of the June 29, 2005 meeting at which final plat approval was granted for the Woodlands Hills Subdivision were approved at the July 27, 2005 Planning

Board meeting. As indicated thereon, a copy of the minutes (Exhibit "D") were provided by me to the Town Clerk, received by her, upon information and belief, on July 29, 2005.

8. As a result, based upon my review of the documents in the McCulloch file and my recollection, a copy of the letter setting forth the action taken by the Planning Board was mailed to Mr. McCulloch the day following the Planning Board meeting at which action was taken and was filed with the Town Clerk two days after the meeting. Similarly, the minutes of the meeting at which the Planning Board acted on the subdivision application were filed with the Town Clerk approximately two days after their approval by the Planning Board at the following meeting.


Karen Buechele

Sworn to before me this
20th day of March, 2008


JUSTICE TOWN OF MILAN, OFFICE EXPIRES
DEC 31, 2010